

Those rejections were withdrawn four years ago, specifically in an Office action that was mailed on December 1, 2006.

Applicants respectfully assert that the inventions of the pending claims still are not shown or suggested by Bailey, alone or in combination with any other reference.

Claim 65 stands rejected as allegedly being anticipated by the teachings of Bailey. **Claim 68** is believed to stand rejected as being unpatentable over Bailey in view of Gleeson et al.

Those rejections should be withdrawn.

Bailey does not show or suggest the “spaced apart” poles called for in claims 65 and 68. Bailey instead shows plural pole assemblies, all of which are immediately adjacent to one another.

Because Bailey used a lattice of interwoven ropes on “U-shaped” pole-structured members (e.g. made of tubing material) to form his barrier, it was necessary for Bailey to adjacently position his pole assemblies in order to completely surround a trampoline with a fall prevention barrier.

All things being equal, Bailey’s adjacent pole assemblies require about twice the length of tubing (twice the weight of tubing) as comparable enclosure systems of claims 65 and 68. As compared to a comparable enclosure system of claim 65 or 68, a Bailey enclosure, with its adjacent pole assemblies, weighs at least twice as much. This difference in size and weight causes the Bailey system to have several disadvantages when compared to comparable enclosure systems of claim 65 or 68.

In his preferred enclosure (FIGS. 1-6), Bailey’s adjacent pole assemblies are secured together with ropes. For that reason, Bailey’s preferred enclosure has about twice the inertia or resistance to movement as comparable enclosure system of claim 65 or 68. This means that the body of a jumper impacting a preferred Bailey enclosure will need to absorb substantially more of the collision energy during the first moment of impact thus increasing the injury potential as compared to a spaced apart pole configuration which has no more than about half the inertia of the Bailey enclosure. In a second configuration (FIG. 7) that is “not preferred” (col. 4, line 44), Bailey’s adjacent poles do not appear to be lashed together by ropes. In this second

configuration, wherein it is critical for Bailey's pole assemblies to be immediately adjacent to avoid gaps that would allow a jumper to fall off, Bailey's poles would have twice the mass and volume of tubing material as a comparable spaced-apart pole enclosure system of claim 65 or 68.

All the additional tubing material makes the Bailey enclosure more difficult to put up and take down.

As discussed beginning at page 29, line 19 of the specification, presently claimed enclosure systems typically can be provided in compact, lightweight packages as compared to the Bailey enclosure which, because it requires so much tubing material, is less portable and thus more cumbersome and costly for retailers and consumers to move and store.

And because twice the amount of tubing material is required, a Bailey enclosure typically would be much more expensive than a comparable, presently claimed enclosure system.

Furthermore, the Bailey patent does not teach or suggest a system where each pole terminates at an end positioned below the rebounding mat and at an end positioned five to eight feet above the rebounding mat as specified in claims 65 and 68. Prior to the present invention, it was not intuitive that such a system could be used safely and effectively.

The significance of the improvements of the enclosure systems of claims 65 and 68 is evidenced by the fact that, prior to the effective filing date of this patent application, sales of trampoline safety enclosures were miniscule despite a long-recognized need to reduce the injuries associated with trampoline use. The first truly successful trampoline enclosure systems were systems of the type defined by claims 65 and 68. Such systems first were distributed by JumpSport, Inc., which owns the present patent application and its progenitors. After JumpSport introduced enclosure systems of the type specified by claims 65 and 68, that employ relatively short, cost-effective poles, more than a million (1,000,000) of such enclosure systems (including systems made by infringers of the patents issued from the parent and grandparent applications) have been sold and have significantly reduced the occurrence of trampoline-related injuries.

Bailey worked diligently to commercialize and profit from the enclosure shown in his patent and he did sell some units, but Bailey's enclosure was not copied; and it did not achieve commercial success in the marketplace. In contrast, the presently claimed enclosures, having spaced-apart, relatively short poles, quickly achieved commercial success and spawned several copyists who also distributed such enclosures. The unobviousness of JumpSport's enclosure systems, having relatively short, cost-effective, spaced apart poles of the type specified in claims

65 and 68, is demonstrated by the fact that neither Bailey nor anyone else marketed such enclosure systems before their introduction by JumpSport, Inc., and by the subsequent overwhelming success of such enclosure systems.

The Gleeson et al. patent adds nothing that shows or suggests the distinctions discussed above.

The enclosure systems of claims 65 and 68 are neither shown nor suggested by the prior art, including Bailey and Gleeson et al.

The rejections thus should be withdrawn.

Claims 71 refers to a type of pole that has two ends that are positioned below the rebounding mat, as would be the case with the members (shaped generally like an inverted U) that constitute the pole assemblies 18 of Bailey. Enclosure systems defined by claim 71 are nevertheless distinct from Bailey.

In particular, Bailey does not show or suggest the “spaced apart” poles called for in claim 71. Bailey instead shows pole assemblies, all of which are adjacent to one another. (JumpSport, Inc. was the first to disclose, via the issuance of US 6,053,845, an enclosure system having an independent, inverted U-shaped pole spaced apart from other independent poles.)

Because Bailey used a lattice of interwoven ropes on “U-shaped” pole-structured members (e.g. made of tubing material) to form his barrier, it was necessary for Bailey to adjacently position his pole assemblies in order to completely surround a trampoline with a fall prevention barrier.

All things being equal, Bailey’s adjacent pole assemblies require about twice the length of tubing (twice the weight of tubing) as comparable enclosure systems of claim 71. As compared to a comparable enclosure system of claim 71, a Bailey enclosure, with its adjacent pole assemblies, weighs at least twice as much. This difference in size and weight causes the Bailey system to have several disadvantages when compared to comparable enclosure systems of claim 71.

In his preferred enclosure (FIGS. 1-6), Bailey’s adjacent pole assemblies are secured together with ropes. For that reason, Baileys’ preferred enclosure has about twice the inertia or resistance to movement as comparable enclosure system of claim 71. This means that the body of a jumper impacting a preferred Bailey enclosure will need to absorb substantially more of the

collision energy during the first moment of impact thus increasing the injury potential as compared to a spaced apart pole configuration which has no more than about half the inertia of the Bailey enclosure. In a second configuration (FIG. 7) that is "not preferred" (col. 4, line 44), Bailey's adjacent poles do not appear to be lashed together by ropes. In this second configuration, wherein it is critical for Bailey's pole assemblies to be immediately adjacent to avoid gaps that would allow a jumper to fall off, Bailey's poles would have twice the mass and volume of tubing material as a comparable spaced-apart pole enclosure system of claim 71.

As discussed beginning at page 29, line 19 of the specification, enclosure systems of the present invention typically can be provided in compact, lightweight packages as compared to the Bailey enclosure which, because it requires so much tubing material, is less portable and thus more cumbersome and costly for retailers and consumers to move and store.

All the additional tubing material makes the Bailey enclosure more difficult to put up and take down than a comparable enclosure system of claim 71.

And because twice the amount of tubing material is required, a Bailey enclosure would be much more expensive than a comparable enclosure system of claim 71.

The examiner is invited to point out where in Bailey "spaced apart poles" are shown. Absent such a showing, the rejections of claim 71 should be removed.

Conclusion

Applicants again respectfully assert that the cited patents, taken alone or together, do not show or suggest the claimed enclosure systems.

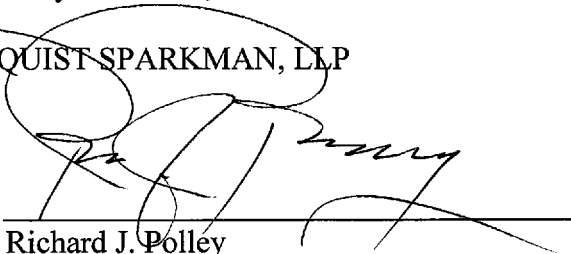
Favorable reconsideration and a Notice of Allowance are requested.

Respectfully submitted,

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